IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1080 OF 2007
IN
CRIMINAL APPEAL NO. 457 OF 2005

Shakila Gulam Rasul Mukhi ..Applicant

Vs.

The State of Maharashtra ..Respondent

Ms. Sharmila Kaushik for applicant.
Mr. P.A. Pol, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : October 31, 2007.

P.C.:

1. Heard Ms. Kaushik the learned counsel for the applicant. This is an application for being released on bail during the pendency of Criminal Appeal No. 457 of 2005 filed by the applicant-appellant.

2. The applicant - accused no.1 along with accused no.4 has been convicted for the offences punishable under Sections 368, 373, 327 of IPC and under Section 6 of the Immoral Traffic (Prevention) Act, 1956. For the offence punishable under Section

373 of IPC the applicant has been sentenced to suffer RI for 10 years and same is the sentence period for the offence under Section 327 of IPC.

3. It is submitted by Ms. Kaushik the learned counsel for the applicant that the accused was taken in custody on 28/8/2002 in connection with Sessions Case No. 1122 of 2002 in which she has been convicted and sentenced and she was in jail all along. Thus, the applicant has undergone sentence for the period of five years and two months and, therefore, by placing reliance on the order passed by the Apex Court in the case of Mansingh vs. Union of India [(2006) 1 SCC (Cri.) 279], Ms. Kaushik prays for the applicant to be released on bail.

4. The learned APP has filed an affidavit in reply of Shri P.S. Gawande, Police Inspector, Goregaon Police Station, Mumbai and has opposed the bail application in view of the seriousness of the charges proved against the applicant. It has also been pointed out that accused no.4 is in custody, as at present and the gravity of the offences proved

against the applicant is much more. It has been further pointed out that R & P with the paper book has been received and, therefore, both the appeals can be listed for final hearing at the earliest possible and immediately on reopening of the court after Diwali Vacation.

5. Criminal Appeal No.1051/04 and Criminal Appeal No. 457/05 are hereby directed to be listed for final hearing in the week commencing from 19/11/2007. If Criminal Appeal No.457/05 is not heard and decided for some or the other reasons till 31/1/2008, liberty to the learned counsel for the applicant to press for this application for bail.

(B.H. Marlapalle,J.)